

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 740

Introduced by Assembly Member Pavley
(Coauthors: Assembly Members Chavez, Levine, Lieber, and Lowenthal)
(Coauthors: Senators Kuehl and Vasconcellos)

February 19, 2003

An act to add Division 41 (commencing with Section 73500) to the Public Resources Code, relating to financing an air and water quality and coastal protection program, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 740, as amended, Pavley. Clean Air, Clean Water, and Coastal Protection Act of 2004.

Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs.

This bill would enact the Clean Air, Clean Water, and Coastal Protection Act of 2004 which, if adopted, would authorize, for purposes of financing an air and water quality and coastal protection program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$2,900,000,000.

The bill would require the Secretary of State to submit the bond act to the voters at the ____ election.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 41 (commencing with Section 73500) is added to the Public Resources Code, to read:

DIVISION 41. CLEAN AIR, CLEAN WATER, AND
COASTAL PROTECTION ACT OF 2004

CHAPTER 1. SHORT TITLE AND FINDINGS AND DECLARATIONS

73500. This division shall be known and may be cited as the Clean Air, Clean Water, and Coastal Protection Bond Act of 2004.

73501. The Legislature finds and declares that:

(a) California's air pollution continues to pose significant dangers to the public's health in both urban and many rural areas.

(b) Grant programs to encourage industry, transportation, and agriculture to replace older more polluting equipment and vehicles with new very low-emission and zero emission alternatives can provide a cost effective way to improve air quality, protect public health, and save lives.

(c) Air pollution from agricultural sources can be reduced by encouraging alternatives to current burning, *irrigation pumping*, tillage, fertilizing and other farming practices employed in some areas.

(d) One of the most important long range strategies to improve air quality, energy efficiency, and reduce dependence on foreign oil is the adoption of hydrogen as a major transportation fuel. A major barrier to the ultimate introduction of hydrogen fueled vehicles is the lack of fueling infrastructure. It may be possible to advance the development of hydrogen fueled vehicles by establishing an early public-private partnership to develop a fueling infrastructure.

CHAPTER 2. DEFINITIONS

73502. The following definitions apply to this division:

(a) “Air board” means the State Air Resources Board.

(b) “Air pollution” means emissions of pollutants regulated by the air board and include oxides of nitrogen, hydrocarbons, particulate matter, and toxic air contaminants.

(c) “Board” means the State Water Resources Control Board.

(d) “Department” means the Department of Fish and Game.

~~(e) “Secretary” means the Secretary of the Resources Agency.~~

~~(f) “Projects” and “Eligible Projects” are projects for one or more of the following purposes:~~

~~(1) The acquisition, construction, modification, or restoration of capital assets such as land and water resources, buildings, and facilities, as well as interests in these capital assets, and related costs.~~

~~(2) The acquisition of equipment, tools, vehicles, vessels, long-term contracts, or other enforceable interests in capital assets necessary to achieve the objectives of the program.~~

~~(3) The replacement, repowering or rebuilding of equipment.~~

(e) “Fund means the Clean Air, Clean Water, and Coastal Protection Fund, established by Section 73505.

(f) “Local districts” means air pollution control districts or air quality management districts.

(g) “Projects” and “eligible projects” are projects for one or more of the following purposes:

(1) The acquisition, construction, modification, or restoration of capital assets such as land and water resources, building, and facilities, as well as interests in these capital assets, and related costs.

(2) The acquisition of equipment, tools, vehicles, vessels, long-term contracts, or other enforceable interests in capital assets necessary to achieve the objectives of the program.

(3) The replacement, repowering, or rebuilding or equipment.

(h) “Secretary” means the Secretary of the Resources Agency.

1 CHAPTER 3. THE CLEAN AIR, CLEAN WATER, AND COASTAL
2 PROTECTION FUND

3
4 73505. The proceeds of bonds issued and sold pursuant to this
5 division shall be deposited in the Clean Air, Clean Water, and
6 Coastal Protection Fund, which is hereby established in the State
7 Treasury.

8
9 CHAPTER 4. CLEAN AIR PROGRAM

10
11 Article 1. Administrative Provisions

12 73506. The air board, *in consultation with local districts*,
13 shall adopt regulations as needed for the administration of
14 programs funded pursuant to this chapter based on the following
15 criteria:

16 (a) Projects shall provide cost-effective emission reductions of
17 air pollution.

18 (b) Projects shall contribute to public health by reducing
19 pollution during the entire life of the project.

20 (c) No project is eligible for funding if it is required by any
21 local, state, or federal statute, rule or regulation, or any other
22 binding order.

23 (d) The air board shall establish standards for eligible costs,
24 appropriate matching requirements, and establish other grant and
25 loan requirements necessary to ensure maximum public benefits.

26 (e) All programs established pursuant to this chapter shall
27 include a monitoring and reporting component to allow evaluation
28 and modification of program requirements to achieve maximum
29 air quality improvements.

30
31 Article 2. Reducing Pollution from Diesel Trucks: The Carl
32 Moyer Program

33
34 73507. The sum of two hundred million dollars
35 (\$200,000,000) shall be available from the fund for appropriation
36 by the Legislature to the air board for grants *to local districts*
37 pursuant to Chapter 9 (commencing with Section 44275) of Part
38 5 of Division 26 of the Health and Safety Code.
39

Article 3. Reducing Pollution from Schoolbuses

73508. The sum of one hundred million dollars (\$100,000,000) shall be available from the fund for appropriation by the Legislature to the air board for grants *to local districts* to replace older, more polluting, schoolbuses, to reduce air pollution and to reduce exposure to air pollution, including air toxics, by school children.

Article 4. Reducing Pollution from Agricultural Sources

73509. The sum of one hundred million dollars (\$100,000,000) shall be available from the fund for appropriation by the Legislature to the air board for grants and loans *to local districts* to reduce air pollution from agricultural sources. Eligible projects may include, but are not limited, to any of the following:

(a) Grants and loans for the replacement of engines and equipment to reduce air pollution.

(b) Grants and loans for equipment or other eligible projects that encourage adoption of tillage, harvesting, fertilizing, or other practices that reduce air pollution.

(c) Grants for equipment or other capital outlay necessary to reduce agricultural burning.

Article 5. Hydrogen Fueling Infrastructure

73510. (a) The sum of five hundred million dollars (\$500,000,000) shall be available from the fund for appropriation by the Legislature to the air board for grants and loans for projects that provide incentives for the early establishment of a fueling infrastructure to support hydrogen fuel cell powered ~~and~~, hydrogen combustion powered vehicles *and other projects that may be needed to promote the early commercial introduction of hydrogen fueled vehicles in California*.

(b) The air board, in consultation with the California Energy Resources Conservation and Development Commission, the Treasurer, the affected industries, public health and environmental organizations, and the public, shall prepare and submit to the Legislature, *not later than one year after the effective date of this division*, a plan to use the funds authorized by this section to

1 encourage the earliest practical, cost effective, large scale
2 inclusion of hydrogen fueled vehicles into the California vehicle
3 market.

4 (c) The plan shall include consideration of financing
5 subsequent fueling infrastructure development through revenue
6 bonds supported by a tax on hydrogen. ~~No~~ *Except for the purposes*
7 *of subdivision (b), no* appropriation of funds authorized by this
8 section may be made prior to the date on which the report required
9 by this section is submitted to the Legislature.

10
11 CHAPTER 5. CLEAN WATER PROGRAMS

12
13 Article 1. Water Quality

14
15 73530. (a) The sum of five hundred million dollars
16 (\$500,000,000) shall be available from the fund for appropriation
17 by the Legislature to the board for competitive grants, as follows:

18 (1) The sum of one hundred million dollars (\$100,000,000) for
19 nonpoint source pollution prevention projects pursuant to Article
20 3 (commencing with Section 30935) of Chapter 4 of Division 20.4.

21 (2) The sum of one hundred million dollars (\$100,000,000) for
22 agricultural pollution prevention projects pursuant to Article 4
23 (commencing with Section 30940) of Chapter 4 of Division 20.4.
24 Of the funds made available pursuant to this paragraph, not less
25 than twenty million dollars (\$20,000,000) shall be expended for
26 grants to reduce water pollution from dairy operations.

27 (3) The sum of two hundred million dollars (\$200,000,000) for
28 urban storm water runoff projects pursuant to Article 2
29 (commencing with Section 30930) of Chapter 4 of Division 20.4.

30 (4) The sum of fifty million dollars (\$50,000,000) for small
31 community wastewater projects pursuant to Article 1
32 (commencing with Section 30925) of Chapter 4 of Division 20.4.

33 (5) The sum of fifty million dollars (\$50,000,000) for small
34 community groundwater protection projects pursuant to Article 6
35 (commencing with Section 30950) of Chapter 4 of Division 20.4.

36 (b) For the purposes of funding projects pursuant to this article,
37 priority shall be given to projects that do both of the following:

38 (1) Assist in meeting water quality standards established by the
39 board.

1 (2) Are implemented as part of a multi objective water
2 management plan.

3 (c) All projects financed pursuant to this article shall include a
4 monitoring and evaluation component consistent with the surface
5 water ambient monitoring program.

6
7 Article 3. Integrated Watershed Management Programs
8

9 73531. The sum of five hundred million dollars
10 (\$500,000,000) shall be available from the fund for appropriation
11 by the Legislature to the board for grants for integrated watershed
12 management projects pursuant to Article 5 (commencing with
13 Section 30945) of Chapter 4 of Division 20.4.

14
15 Article 4. River Protection
16

17 73532. The sum of three hundred million dollars
18 (\$300,000,000) shall be available from the fund for appropriation
19 ~~by the Legislature to the secretary for competitive grants for river~~
20 ~~parkway projects consistent with Section 79541 of the Water Code~~
21 *by the Legislature to the secretary for river parkway projects in*
22 *accordance with this article.* Projects may include those that meet
23 the requirements of the urban streams restoration program
24 established pursuant to Section 7048 of the Water Code. For the
25 purposes of funding projects pursuant to this article, priority shall
26 be given to projects that combine two or more of the following
27 elements:

- 28 (a) Water quality improvement.
29 (b) Groundwater recharge.
30 (c) Stormwater management.
31 (d) Recreational benefits.
32 (e) Urban riverfront revitalization.
33 (f) Habitat protection and restoration.
34 (g) Agricultural preservation.

35 73533. (a) Funds made available pursuant to Section 73532
36 shall be allocated to projects within the watersheds, including
37 tributaries, of the following rivers, pursuant to the following
38 schedule:
39

1	(1) North coast rivers	\$20,000,000
2	(2) Sacramento River	\$50,000,000
3	(3) Consumnes River	\$10,000,000
4	(4) San Joaquin River	\$30,000,000
5	(5) Kern River	\$20,000,000
6	(6) Guadalupe River	\$10,000,000
7	(7) Central coast rivers	\$30,000,000
8	(8) Los Angeles River	\$50,000,000
9	(9) San Gabriel River	\$10,000,000
10	(10) Santa Ana River	\$30,000,000
11	(11) San Diego River	\$10,000,000
12	(12) Unallocated	\$30,000,000

13
 14 (b) Projects funded pursuant to paragraph (8) or (9) subdivision
 15 (a) shall be implemented in a manner that is consistent with
 16 Section 79508 of the Water Code.

17 (c) Projects funded pursuant to paragraph (11) shall be
 18 implemented in a manner that is consistent with Division 22.9
 19 (commencing with Section 32630).

20 73534. For the purposes of this article, the following
 21 definitions apply:

22 (a) “North coast rivers” include all those rivers and their
 23 watersheds within the Counties of Del Norte, Humboldt,
 24 Mendocino, Sonoma, Marin, and Napa.

25 (b) “Central coast rivers” include all those rivers and their
 26 watersheds within the Counties of San Francisco, San Mateo,
 27 Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, and
 28 Ventura.

29 30 CHAPTER 6. COASTAL WATER QUALITY PROGRAMS 31

32 73550. The sum of one hundred million dollars
 33 (\$100,000,000) shall be available from the fund for appropriation
 34 by the Legislature to the board for competitive grants for the
 35 purposes of Chapter 3 (commencing with Section 30915) of
 36 Division 20.4. *Of the funds made available pursuant to this*
 37 *section, not less than twenty million dollars (\$20,000,000) shall be*
 38 *expended for the restoration of the Santa Monica Bay pursuant to*
 39 *Division 20.7 (commencing with Section 30988).*

1 73551. The sum of two hundred million dollars
2 (\$200,000,000) shall be available from the fund for appropriation
3 by the Legislature to the State Coastal Conservancy for coastal
4 protection projects pursuant to Division 21 (commencing with
5 Section 31000) of the Public Resources Code. Of the funds made
6 available pursuant to this section, not less than forty million dollars
7 (\$40,000,000) shall be expended for the San Francisco Bay
8 Conservancy Program established pursuant to Chapter 4.5
9 (commencing with Section 31160) of Division 21.

10 73552. The sum of one hundred million dollars
11 (\$100,000,000) shall be available from the fund for appropriation
12 by the Legislature to the department for projects for the protection
13 and restoration of coastal and anadromous fisheries, marine
14 mammals, and coastal wildlife and habitat.

15 73553. The sum of three hundred million dollars
16 (\$300,000,000) shall be available from the fund for appropriation
17 by the Legislature to the board for matching grants to public
18 agencies for projects to make improvements to, or upgrades or
19 conversions of, existing sewer collection and treatment systems
20 and septic systems for the restoration and protection of coastal
21 water quality.

22 73554. All real property acquired pursuant to this chapter
23 shall be acquired from willing sellers.

24
25 Chapter 7. MISCELLANEOUS
26

27 73559. Not more than 10 percent of funds allocated to any
28 program funded by this division may be used to finance
29 monitoring, research, planning, outreach, or training necessary
30 for the successful implementation of the program.

31
32 CHAPTER 8. FISCAL PROVISIONS
33

34 73560. Bonds in the total amount of two billion nine hundred
35 million dollars (\$2,900,000,000), or so much thereof as is
36 necessary, not including the amount of any refunding bonds, or so
37 much thereof as is necessary, may be issued and sold to provide a
38 fund to be used for carrying out the purposes expressed in this
39 division and to reimburse the General Obligation Bond Expense
40 Revolving Fund pursuant to Section 16724.5 of the Government

1 Code. The bonds, when sold, shall be and constitute a valid and
2 binding obligation of the State of California, and the full faith and
3 credit of the State of California is hereby pledged for the punctual
4 payment of the principal of, and interest on, the bonds as the
5 principal and interest become due and payable.

6 73561. The bonds authorized by this division shall be
7 prepared, executed, issued, sold, paid, and redeemed as provided
8 in the State General Obligation Bond Law (Chapter 4
9 (commencing with Section 16720) of Part 3 of Division 4 of Title
10 2 of the Government Code), and all of the provisions of that law,
11 except Section 16727, apply to the bonds and to this division and
12 are hereby incorporated in this division as though set forth in full
13 in this division.

14 73562. (a) Solely for the purpose of authorizing the issuance
15 and sale, pursuant to the State General Obligation Bond Law, of
16 the bonds authorized by this division, the Clean Air, Clean Water,
17 and Coastal Protection Finance Committee is hereby established.
18 For purposes of this division, the Clean Air, Clean Water, and
19 Coastal Protection Finance Committee is the “committee” as that
20 term is used in the State General Obligation Bond Law. The
21 committee consists of the Treasurer, the Controller, and the
22 Director of Finance, or their designated representatives. The ____
23 shall serve as chairperson of the committee. A majority of the
24 committee may act for the committee.

25 (b) For purposes of the State General Obligation Bond Law,
26 each state agency that administers an appropriation from the fund
27 is designated the “board.”

28 73563. The committee shall determine whether or not it is
29 necessary or desirable to issue bonds authorized pursuant to this
30 division in order to carry out the actions specified in this division
31 and, if so, the amount of bonds to be issued and sold. Successive
32 issues of bonds may be authorized and sold to carry out those
33 actions progressively, and it is not necessary that all of the bonds
34 authorized to be issued be sold at any one time.

35 73564. There shall be collected each year and in the same
36 manner and at the same time as other state revenue is collected, in
37 addition to the ordinary revenues of the state, a sum in an amount
38 required to pay the principal of, and interest on, the bonds each
39 year. It is the duty of all officers charged by law with any duty in

1 regard to the collection of the revenue to do and perform each and
2 every act that is necessary to collect that additional sum.

3 73565. Notwithstanding Section 13340 of the Government
4 Code, there is hereby appropriated from the General Fund in the
5 State Treasury, for the purposes of this division, an amount that
6 will equal the total of the following:

7 (a) The sum annually necessary to pay the principal of, and
8 interest on, bonds issued and sold pursuant to this division, as the
9 principal and interest become due and payable.

10 (b) The sum necessary to carry out Section 73566, appropriated
11 without regard to fiscal years.

12 73566. For the purposes of carrying out this division, the
13 Director of Finance may authorize the withdrawal from the
14 General Fund of an amount not to exceed the amount of the unsold
15 bonds that have been authorized by the committee to be sold for
16 the purpose of carrying out this division. Any amount withdrawn
17 shall be deposited in the fund. Any money made available under
18 this section shall be returned to the General Fund from proceeds
19 received from the sale of bonds for the purpose of carrying out this
20 division.

21 73567. All money deposited in the fund that is derived from
22 premium and accrued interest on bonds sold shall be reserved in
23 the fund and shall be available for transfer to the General Fund as
24 a credit to expenditures for bond interest.

25 73568. Pursuant to Chapter 4 (commencing with Section
26 16720) of Part 3 of Division 4 of Title 2 of the Government Code,
27 the cost of bond issuance shall be paid out of the bond proceeds.
28 These costs shall be shared proportionally by each program funded
29 through this bond act.

30 73569. The agency that administers an appropriation from the
31 fund may request the Pooled Money Investment Board to make a
32 loan from the Pooled Money Investment Account, including other
33 authorized forms of interim financing that include, but are not
34 limited to, commercial paper, in accordance with Section 16312
35 of the Government Code, for the purpose of carrying out this
36 division. The amount of the request shall not exceed the amount
37 of the unsold bonds that the committee, by resolution, has
38 authorized to be sold for the purpose of carrying out this division.
39 The requesting agency shall execute any documents required by
40 the Pooled Money Investment Board to obtain and repay the loan.

1 Any amounts loaned shall be deposited in the fund to be allocated
2 by the requesting agency in accordance with this division.

3 73570. The bonds may be refunded in accordance with
4 Article 6 (commencing with Section 16780) of Chapter 4 of Part
5 3 of Division 4 of Title 2 of the Government Code, which is a part
6 of the State General Obligation Bond Law. Approval by the voters
7 of the state for the issuance of the bonds described in this division
8 includes the approval of the issuance of any other bonds issued to
9 refund any bonds originally issued under this division or any
10 previously issued refunding bonds.

11 73571. Notwithstanding any provision of this division or the
12 State General Obligation Bond Law, if the Treasurer sells bonds
13 pursuant to this division that include a bond counsel opinion to the
14 effect that the interest on the bonds is excluded from gross income
15 for federal tax purposes, subject to designated conditions, the
16 Treasurer may maintain separate accounts for the investment of
17 bond proceeds and for the investment earnings on those proceeds.
18 The Treasurer may use or direct the use of those proceeds or
19 earnings to pay any rebate, penalty, or other payment required
20 under federal law or to take any other action with respect to the
21 investment and use of those bond proceeds required or desirable
22 under federal law to maintain the tax-exempt status of those bonds
23 and to obtain any other advantage under federal law on behalf of
24 the funds of that state.

25 73572. The Legislature hereby finds and declares that,
26 inasmuch as the proceeds from the sale of bonds authorized by this
27 division are not “proceeds of taxes” as that term is used in Article
28 XIII B of the California Constitution, the disbursement of these
29 proceeds is not subject to the limitations imposed by that article.

30 SEC. 2. This act shall become effective upon the approval by
31 the voters of the Clean Air, Clean Water, and Coastal Protection
32 Act of 2004, as set forth in Section 1 of the act adding this section.

33 SEC. 3. Section 1 of this act shall be submitted to the voters
34 at the ____ election in accordance with provisions of the
35 Government Code and the Elections Code governing the
36 submission of statewide measures to the voters.

37 SEC. 4. (a) Notwithstanding any other provision of law, all
38 ballots at the election shall have printed thereon and in a square
39 thereof, the words: “Clean Air, Clean Water, and Coastal
40 Protection Act of 2004” and in the same square under those words,

1 the following in 8-point type: “This act provides for a bond issue
2 of two billion hundred nine million dollars (\$ 2,900,000,000) to
3 provide funds for an air and water quality and coastal protection
4 program.” Opposite the square, there shall be left spaces in which
5 the voters may place a cross in the manner required by law to
6 indicate whether they vote for or against the act.

7 (b) Notwithstanding Sections 13247 and 13281 of the
8 Elections Code, the language in subdivision (a) shall be the only
9 language included in the ballot label for the condensed statement
10 of the ballot title, and the Attorney General shall not supplement,
11 subtract from, or revise that language, except that the Attorney
12 General may include the financial impact summary prepared
13 pursuant to Section 9087 of the Elections Code and Section 88003
14 of the Government Code. The ballot label is the condensed
15 statement of the ballot title and the financial impact summary.

16 (c) Where voting in the election is done by means of voting
17 machines used pursuant to law in a manner that carries out the
18 intent of this section, the use of the voting machines and the
19 expression of the voters’ choice by means thereof are in
20 compliance with this section.

21 SEC. 5. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety
23 within the meaning of Article IV of the Constitution and shall go
24 into immediate effect. The facts constituting the necessity are:

25 In order to reduce air and water pollution, and protect critical
26 natural resources, as soon as possible, thereby protecting public
27 health and safety, it is necessary that this act take effect
28 immediately.

